APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,767	01/23/2002	Richard Marin	1954.65969	8727

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GREER, BURNS & CRAIN	PICH, PONNOREAY

GREER, BURNS & CRAIN
300 S WACKER DR
25TH FLOOR
CHICAGO, IL 60606

ART UNIT	PAPER NUMBER
2135	

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Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/055,767	MARIN ET AL.
	Examiner	Art Unit	
	Ponnoreay Pich	2135	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>30 November 2005</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18 and 20-25* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18 and 20-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claims 1-18 and 20-25 are pending. Applicant's amendments and arguments directed towards amend claims and new claims have been considered, but are moot in view of new grounds of rejections presented below.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 20-24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As per claim 20, the limitations recited therein are substantially similar to what is recited in claim 1 except claim 20 also has the added limitation of "building an array of at least one network interface including a unique identifier for uniquely identifying each said at least one network interface and a status associated to each unique identifier for indicating the status of said unique identifier". This limitation is new matter as it was not disclosed in the original specification of the current application. The examiner notes that co-pending application 10/131,856 is a continuation in part of the current application and claims 1-6 of the '865 application is substantially similar to what is

recited in 20-25 of the current application. The examiner submits that the above

limitation was disclosed in the continuation in part application, but not the original

specification of the current application. Claims 21-25 are dependent on claim 20 and

further defines the above limitation. As the above limitation is new matter, so too are

the limitations recited in claims 21-25 as the limitations recited therein further defines

the above limitation and also were not disclosed in the original specification of the

current application. As far as art rejections to be applied to claim 20, the last four

limitations of claim 20 are similar to what is recited in claim 1 and the rejection of claim 1

applies to those limitations of claim 20 also. The rest of the limitations recited in claims

20-25 will not be considered for art rejections as they are new matter.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

Claims 2 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

1. Claim 2 recites "displaying the current status of the activation status...". It is

   unclear how a status can also have a status.

2. Claim 18 recites in the last two lines "the above method", which lacks antecedent

   basis. It is unclear to which method applicant is referring.

3. Claim 18 recites "the step of determining whether said computer is active" in the last line, which lacks antecedent basis. The examiner notes that claim 18 recites "means for determining whether the computer is active", but it does not recite a step wherein determining is done, nor any method with steps.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 18, 2, 8-9, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Shaffer et al (US 6,145,083).

Claims 1 and 18:

As per claim 1, Shaffer dislcoses:

1. Determining whether the computer is active (col 2, lines 55-62).

2. Deactivating the computer from the insecure network when it is determined that the computer is inactive, thereby security the computer (col 2, lines 55-62 and col 5, lines 27-31).

3. Activating the computer to the network when it is determined that the computer is active (col 2, lines 62-67).

4. Waiting for a predefined period to repeat said method from said step of determining whether the computer is active (Fig 3-4 and col 3, lines 1-4).

Claim 18 recites a system comprising means for implementing the method of claim 1 and is rejected for the same reasons.

Claim 2:

Shaffer further discloses the step of displaying the current status of the activation status of the insecure network on the computer (col 5, lines 18-25).

Claim 8:

Shaffer further dislcoses the steps of determining whether there is a network reactivation request; and reactivating the computer on the insecure network when there is a network reactivation request (col 2, lines 58-67 and col 6, lines 35-53).

Claim 9:

Shaffer further discloses determining whether there is a network deactivation request; and deactivating the computer from the insecure network when there is a network deactivation request (col 5, lines 18-42).

Claim 13:

Shaffer further discloses wherein said step of determining the computer is active is performed by a step of determining whether the screen saver is activated on the computer (col 5, lines 32-42).

Claims 1, 18, 2, 8-9, and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Hayton (US 6,799,209).

Claims 1 and 18:

As per claim 1, Hayton dislcoses:

1. Determining whether the computer is active (col 1, line 60-col 2, line 13 and col 4, lines 5-15).

2. Deactivating the computer from the insecure network when it is determined that the computer is inactive, thereby security the computer (col 1, line 60-col 2, line 13).

3. Activating the computer to the network when it is determined that the computer is active (col 4, lines 49-64).

4. Waiting for a predefined period to repeat said method from said step of determining whether the computer is active (Fig 4; col 1, line 60-col 2, line 13; and col 4, lines 5-15).

Claim 18 recites a system comprising means for implementing the method of claim 1 and is rejected for the same reasons.

Claim 2:

Hayton further discloses the step of displaying the current status of the activation status of the insecure network on the computer (col 4, lines 56-65).

Claim 8:

Hayton further dislcoses the steps of determining whether there is a network

reactivation request; and reactivating the computer on the insecure network when there

is a network reactivation request (col 2, lines 10-15 and col 3, lines 49-64).

Claim 9:

Hayton further discloses determining whether there is a network deactivation

request; and deactivating the computer from the insecure network when there is a

network deactivation request (col 2, lines 6-10).

Claim 13:

Hayton further discloses wherein said step of determining the computer is active

is performed by a step of determining whether the screen saver is activated on the

computer (col 4, lines 39-56).

Claims 1, 18, and 8-9 are rejected under 35 U.S.C. 102(e) as being anticipated

by Box (US 6,748,542).

Claims 1 and 18:

As per claim 1, Box dislcoses:

5. Determining whether the computer is active (col 4, lines 20-25 and lines 40-47).

6. Deactivating the computer from the insecure network when it is determined that

    the computer is inactive, thereby security the computer (col 4, lines 20-25 and

    lines 40-47).

7. Activating the computer to the network when it is determined that the computer is

active (col 4, lines 31-61).

8. Waiting for a predefined period to repeat said method from said step of

determining whether the computer is active (col 4, lines 31-40).

Claim 18 recites a system comprising means for implementing the method of

claim 1 and is rejected for the same reasons.

Claim 8:

Box further dislcoses the steps of determining whether there is a network

reactivation request; and reactivating the computer on the insecure network when there

is a network reactivation request (col 4, lines 31-40).

Claim 9:

Box further discloses determining whether there is a network deactivation

request; and deactivating the computer from the insecure network when there is a

network deactivation request (col 4, lines 20-40).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set
forth in section 102 of this title, if the differences between the subject matter sought to be patented and
the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 3-7 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer (US 6,145,083) in view of Killian (US 6,064,671).

Claims 3-7 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayton (US 6,799,209) in view of Killian (US 6,064,671).

Claims 3-7 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Box (US 6,748,542) in view of Killian (US 6,064,671).

Claim 3:

As per claim 3, Shaffer, Hayton, and Box each do not disclose the following limitations, which is disclosed by Killian:

1. Obtaining an address for a network card (col 13, lines 1-10).

2. Obtaining an address for an interface connected to the insecure network using the obtained address of the network card (col 13, lines 1-10).

3. Obtaining the status of the obtained address of the interface (col 17, lines 20-23).

At the time applicant's invention was made, it would have been obvious to one of ordinary skill in the art to incorporate the teachings of Shaffer, Hayton, or Box within Killian's invention according to the limitations recited in claim 3. One of ordinary skill would have been motivated to do so because Killian discloses that it is an object of his invention to provide apparatuses and methods for increasing the bandwidth at which computers can communicate over a computer network (col 9, lines 28-30). Any of

Shaffer, Hayton, and Box's teachings of disconnecting a computer from a network when the computer is not actively being used by a user would further free up bandwidth in a network that might otherwise have been wasted by an inactive computer. This would further increase the amount of bandwidth available for use by other computers in Killian's network, thus is in-line with Killian's goal.

Claim 4:

Shaffer, Hayton, Box, and Killian do not explicitly disclose wherein the step of obtaining an address for the interface further comprises the steps of:

1. Initializing any sockets support in the program managing the insecure network connection.

2. Loading a driver having an object identifier of the program managing the insecure network connection.

3. Obtaining an address for the initialization function and an address for the query function from the program.

4. Calling the initialization function to initialize the driver.

However, the examiner asserts that the above-recited steps are well known in the art because the above-recited steps are the steps necessary to obtain an address in any type of system connected to a network. Further, Killian discloses initializing sockets to make a connection between the individual computational entries in the application layer of TCP (col 14, line 51-col 15, line 11). Killian also dislcoses that whether each socket is active or not is checked (col 15, line 60-col 16, line 23). The examiner submits

that these teachings by Killian read on the limitations recited in claim 4 as the sockets

cannot be initialized to be active unless an address is obtained.

Claim 5:

Killian further dislcoses determining a total number of interface(s) using the

obtained address of the network card; and storing the obtained total number of

interface(s) in temporary memory (Figures 10 and 12 and col 13, liens 1-40). Note that

the routing tables seen in Figures 10 and 12 could not have been built if the total

number of interface(s) was not determined.

Claim 6:

Killian further discloses wherein said step of obtaining the status of each

obtained address of the interface further comprises the steps of reading the status of

the obtained address of the interface; and saving the obtained address of the interface

with the read status to memory (Fig 17 and col 17, lines 20-23).

Claim 7:

Killian dislcoses wherein said step of deactivating the computer from the insecure

network further comprises the step of setting each obtained address of the network

interface to an inactive status (col 21, lines 24-56 and Fig 19). Killian has an

ACTIVE_INTERFACE_ARRAY, which he uses to keep track of which interfaces are

active and inactive.

Claim 10:

Killian further dislcoses determining whether the obtained address of the

interface connected to the insecure network has an active status; and waiting for a

predefined time period to repeat the method when the obtained address of the interface
has a nonactive status (col 21, lines 24-29 and lines 52-64).

Claim 11:

As per claim 11, Shaffer, Hayton, and Box each do not disclose the following
limitations, which is disclosed by Killian: "determining whether there is any active
network processes currently running via the insecure network when it is determined that
the computer is active; and deactivating the computer from the insecure network when
is determined that there is no active network process currently running via the insecure
network" (col 21, lines 24-29 and col 25, lines 1-16).

Killian does note explicitly disclose waiting for a predefined time period to repeat
the method when it is determined that there is an active network process currently
running via the insecure network. However, the examiner take official notice that it is
well known in the art to wait for a predefined period to repeat a method. It would have
been obvious to one of ordinary skill in the art to further modify the modified inventions
of Shaffer, Hayton, or Box according to the limitations recited in claim 11. One of
ordinary skill would have been motivated to wait for a predefined time period to repeat
the method because it would prevent overuse of system resources, i.e. any resources
that would be needed to perform the method, by the method thus allowing other
processes to use those same resources.

Claim 12:

As per claim 12, Shaffer, Hayton, or Box in view of Killian does not explicitly disclose wherein the step of determining whether there is any active network process currently running further comprises the steps of:

1. Obtaining an address for a network card.

2. Obtaining an address for an interface connected to the insecure network using the obtained address of the network card.

3. Reading an old number of received and transmitted bytes over the obtained address of the interface.

4. Changing the obtained address of the interface to an old address for obtaining the number of bytes received.

5. Reading the number of bytes received.

6. Saving the read number of bytes received as a new number.

7. Changing the obtained address of the interface to an address for obtaining the number of bytes transmitted.

8. Reading the number of bytes transmitted.

9. Saving the read number of bytes transmitted as a new number.

10. Determining whether the old numbers of received and transmitted bytes equal to the new numbers of received and transmitted bytes.

11. Returning a determination that an active network process is currently active when the old numbers do not equal the new numbers.

12. Returning a determination that no active network process is currently running when the old numbers equal the new numbers.

However, the examiner asserts that the above-recited limitations read on

examining a log to determine how many bytes of packets have been transmitted from

and received at a network card, which was well known in the art at the time applicant's

invention was made. It should be appreciated by one of ordinary skill that if the log of

received and transmitted bytes do not indicate a change in number that there are no

active network process running. If the number of logged packet changes, then there are

active network processes running. This logging process is the part of any TCP protocol

stack as disclosed by Killian (col 3, lines 25-36). As also disclosed by Killian in the cited

passage, TCP must examine this log for error correction purposes. It would have been

obvious to one of ordinary skill in the art to further modify Killian's invention according to

the limitations recited in claim 12 because it would allow the session and transport layer

of TCP to determine if there are any errors in the packet transmission (col 3, liens 25-

36).

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Box (US

6,748,542) in view of Shaffer et al (US 6,145,083).

Claim 13:

Box does note explicitly disclose wherein said step of determining whether the

computer is active is performed by a step of determining whether the screen saver is

activated on the computer. However, Shaffer discloses the limitation (col 1, lines 56-64

and col 5, lines 32-42).

At the time applicant's invention was made, it would have been obvious to one of

ordinary skill in the art to modify Box's invention according to the limitations recited in

claim 13. One of ordinary skill would have been motivated to do so because a screen

saver's status is often indicative of the status of a computer, thus it would simplify

programming a system to carry out Box's invention by monitoring only the status of the

screen saver.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its
support in the language of 35 U.S.C. 101 which states that "whoever invents or
discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis
added). Thus, the term "same invention," in this context, means an invention drawn to
identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re
Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164
USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by
canceling or amending the conflicting claims so they are no longer coextensive in
scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection
based upon 35 U.S.C. 101.

Claims 20-25 are provisionally rejected under 35 U.S.C. 101 as claiming the

same invention as that of claims 1-6 of copending Application No. 10/131,856. This is a

provisional double patenting rejection since the conflicting claims have not in fact been

patented.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ponnoreay Pich whose telephone number is 571-272-7962. The examiner can normally be reached on 9:00am-4:30pm Mon-Fri.
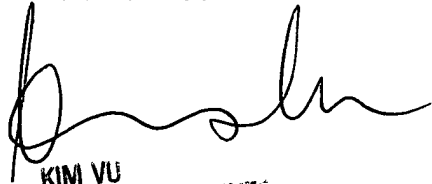
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Ponnoreay Pich
Examiner
Art Unit 2135

PP

KIM VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100